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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,009	12/26/2001	Yuichi Takatsu	65316-0008	2437
10/29/759007/30/2009 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
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07/30/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/036,009

Applicant(s)

TAKATSU, YUICHI

Examiner

DANIEL LASTRA

Art Unit

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-11, 15, 16, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-11, 15-16, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 3-11, 15-16, 22 and 23 have been examined. Application 10/036,009 (ELECTRONIC SETTLEMENT APPARATUS ELECTRONIC SETTLEMENT METHOD, STORAGE MEDIUM AND COMPUTER DATA SIGNAL) has a filing date 12/26/2001 and foreign priority 12/28/2000.

Response to Amendment

2. In response to Non Final Rejection filed 10/20/2008, the Applicant filed an Amendment on 04/17/2009, which amended claims 22 and 23.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 3-11, 15-16, 22 and 23 are rejected under 35 U.S.C. 101 because they are directed to non statutory subject matter. Applicant's claims are written as apparatus claims however, they are claiming functional descriptive material (i.e. software) as "sending mechanism", "receiving mechanism", "determining mechanism" are defined as software.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-11, 15-16, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Said claims are indefinite because they are not apparatus claims. Claim 3-11, 15, 16 recite the limitation "said processor". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-11, 15-16, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (US 5,937,391) in view of Kanter (US 5,537,314).

Claims 22 and 23, Ikeda teaches:

An electronic settlement apparatus connected via a network to a remote terminal being operated by a buyer wishing to purchase a commodity, the electronic settlement apparatus comprising:

a memory for storing discount points representing a property value to be associated with a buyer to which said discount points are assigned (see figure 8);

a sending mechanism that generates a page and sends the generated page via the network to the remote terminal so that the remote terminal displays the sent generated

page instructing the buyer to input commodity data designating a commodity that the buyer wishes to buy and discount data designating discount points the buyer wishes to use for buying the commodity (see col 4, lines 25-35);

a receiving mechanism that receives the commodity data and the discount data, which are sent from the remote terminal, the commodity data and the discount data being input by the user at the remote terminal (see col 4, lines 25-65)

determines, as the discount points to be used for buying the designated commodity either one of the smaller of the discount points that is stored in the memory corresponding to the buyer and the discount points designated by an amount data received by the receiving mechanism when the seller has not specified the maximum value,

an assigning mechanism that determines discount points to be newly assigned to the buyer based on the price of the commodity designated by the commodity data received by the receiving mechanism, and the discount points determined by the determining mechanism (see col 11, lines 10-65);

and an update mechanism which updates the discount points stored in the memory of the buyer by a sum of an originally stored discount points and any newly assigned discount points subtracted by the discount points to be used as determined by the determining means when receiving settlement data representing an end of the settlement of the transaction of the commodity between the seller and the buyer (see col 11, lines 1-65).

Ikeda does not expressly mention that a determining mechanism that determines whether a seller selling the commodity designated by the received commodity data has specified a maximum value of the discount points the buyer can use in one transaction and determines, as the discount points to be used for buying the designated commodity, a smallest one of the discount points that is stored in the discount memory corresponding to the buyer, the discount points designated by the amount data received by the receiving mechanism and the specified maximum value discount points when the seller has specifies the maximum value. However, Kanter teaches that it is old and well known in the promotion art for a seller to set up a maximum allowed discount points that a user is allowed to use for redeeming any specific item (see col 24, lines 20-40). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Ikeda's stores would set up a maximum allowed discount points that a user can use to redeem specific items in order to allow sponsors or sellers to have control in the point redemption.

As per claim 3, Ikeda teaches:

wherein said memory stores user identification data that identifies the user to which said discount points are assigned to be associated with said discount points, and a password associated with the said user identification data (see col 4, lines 25-35); and said processor obtains information and password representing said user; determines whether or not said memory stores said user identification data that identifies the user represented by said obtained information and said obtained password to be associated with each other; and stops obtaining said commodity data or said user

point data when determining that said memory stores neither user identification data nor said password to be associated with each other (see col 4, lines 25-35).

As per claim 4, Ikeda teaches:

wherein said processor obtains information, which is supplied from an external device that is remote from the processor and which represents the user, in accordance with an instruction supplied from the external device, and generates said user identification data that identifies the user represented by obtained information and said password associated with the said user identification data, and store said user identification data and password in said memory (see col 4, lines 25-60).

As per claim 5, Ikeda teaches:

wherein said memory stores user information unique to the user identified by said corresponding user identification data to be associated with said user identification data (see col 4, lines 25-35).

As per claim 6, Ikeda teaches:

wherein when said processor determines that said user identification data that identifies the user represented by said information obtained by the processor and said password obtained by the processor are stored in said memory to be associated with each other, said processor updates said user information stored in grid memory to be associated with the said user identification data to user information supplied from the external device (see col 4, lines 25-65).

As per claim 7, Ikeda teaches:

wherein when said processor determines whether or not said settlement data is supplied to the processor until a predetermined time has elapsed after obtaining commodity data, and when said processor determines that no settlement data is supplied thereto, said processor abandons the obtained corresponding commodity data (see col 10, lines 15-25).

As per claim 8, Ikeda teaches:

further comprising a settlement server, wherein said settlement server stores settlement points representing a property value to be associated with identification data unique to the said settlement points (see col 5, lines 30-40);

determines whether or not said processor obtains said commodity data and use point data that designates an amount to be appropriate for the price of said commodity (see col 10, lines 15-25); obtains said identification data from an external device remote from the settlement server when it is determined that said processor obtains said commodity data and said use point data, decides that a difference between an amount of settlement points corresponding to the price of said commodity represented by said commodity data and an amount of settlement points corresponding to the discount points represented by said use point data is appropriate for the price of the said commodity, each settlement point representing a property value; and supplies said settlement data to said processor when the settlement points associated with said obtained identification data are more than said difference (see col 5, lines 20-40).

As per claim 9, Ikeda teaches:

wherein said memory stores conversion rate data representing a conversion rate between said discount points and settlement points, each settlement point representing a property value, and said processor specifies the amount of said settlement points corresponding to the discount points represented by use point data that designates an amount to be appropriate for the price of said commodity according to the conversion rate represented by said conversion rate data (see col 8, lines 1-25).

As per claim 10, Ikeda teaches:

wherein said processor determines whether or not the price of said commodity represented by said commodity data reaches a predetermined minimum purchase amount, and decides that no discount point is assigned to said user when determining that the price of said commodity does not reach the predetermined minimum Purchase amount (see col 11, lines 1-10).

As per claim 11, Ikeda teaches:

wherein said processor determines whether or not the discount points represented by use point data that designates an amount to be appropriate for the price of said commodity obtained by the processor are more than predetermined available points, and handles said available points as discount points (see col 11, lines 1-35).

As per claim 15, Ikeda teaches:

wherein said memory stores assignment rate data that designates discount points to be newly assigned to said user per unit quantity of the price of said commodity (see col 5, lines 30-40); and said processor decides a value obtained by multiplying the price of said commodity represented by said commodity data obtained by the processor

by the discount points designated by said assignment rate data as discount points to be newly assigned to said user (see col 5, lines 25-45).

As per claim 16, Ikeda teaches:

wherein said commodity data includes point designation information that designates discount points to be assigned to a person who purchases said commodity represented by said commodity data; and said processor decides the discount points represented by said point designation information included in said commodity data obtained by said processor as discount points to be newly assigned to said user (see col 5, lines 25-40).

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Examiner, Art Unit 3688
July 28, 2009